



CITY OF NEWPORT BEACH HARBOR COMMISSION AGENDA

**Council Chambers – 3300 Newport Blvd.
Wednesday, November 14, 2012 – 6:00 PM**

Harbor Commission Members:

**Doug West, Chair
Karen Rhyne
Ralph Rodheim**

**Brad Avery
Paul Blank**

**Duncan McIntosh
David Girling**

Staff Members:

**Chris Miller, Harbor Resources Manager
Shannon Levin, Harbor Resources Supervisor**

Council Liaison:

Mayor Nancy Gardner

- 1) CALL MEETING TO ORDER**
- 2) ROLL CALL**
- 3) PLEDGE OF ALLEGIANCE**
- 4) PUBLIC COMMENTS**

Public comments are invited on agenda and non-agenda items generally considered to be within the subject matter jurisdiction of the Commission. Speakers must limit comments to three (3) minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Commission has the discretion to extend or shorten the speakers' time limit on agenda or non-agenda items, provided the time limit adjustment is applied equally to all speakers. As a courtesy, please turn cell phones off or set them in the silent mode.

- 5) APPROVAL OF MINUTES from October 10, 2012**
- 6) CURRENT BUSINESS**

1. *Stand Up Paddle Boarding in Newport Harbor*

Commissioner Blank will report on his research on stand up paddle boarding in Newport Harbor.

Recommendation:

1. Receive and file.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least seventy-two (72) hours in advance of each regular meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act ("ADA") in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. If requested, this agenda will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Please contact the City Clerk's Office at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible at (949) 644-3005 or cityclerk@newportbeachca.gov.

2. ***Review of the City's Regional General Permit (RGP-54)***

The City's Regional General Permit program will be discussed along with some proposed options for the next permit in 2014. Staff is requesting guidance from the Harbor Commission on how best to proceed by the January 2013 meeting.

Recommendation:

1. The Harbor Commission will consider forming a subcommittee to examine various options for the next RGP-54 permit, and will return to the Commission in January 2013 with a recommended approach.

3. ***Discussion of Proposed Approaches for Reorganizing the Harbor Commission***

The Harbor Commission will discuss the ideas for reorganizing the Commission as stated at the Council Study Session on November 13, 2012.

Recommendation:

1. Receive and file.

7) **SUBCOMMITTEE REPORTS**

8) **QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES**

9) **HARBOR RESOURCES UPDATE** – Receive and File

10) **PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR HARBOR RESOURCES UPDATE**

11) **COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)**

- Overview of eelgrass in Newport Harbor: A presentation by Mike Josselyn Ph.D., WRA Environmental Consultants

12) **DATE AND TIME FOR NEXT MEETING:**

To Be Determined

13) **ADJOURNMENT**

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers
Wednesday, October 10, 2012
6:00 p.m.

1) CALL MEETING TO ORDER

The meeting was called to order at 6:00 p.m.

2) ROLL CALL

Commissioners: Doug West, Chair
Brad Avery
Paul Blank
David Girling
Ralph Rodheim

Absent (Excused): Duncan McIntosh
Karen Rhyne

Staff Members: Chris Miller, Harbor Resources Manager
Shannon Levin, Harbor Resources Supervisor

Council Liaison: Mayor Nancy Gardner

3) PLEDGE OF ALLEGIANCE – Commissioner Girling

4) PUBLIC COMMENTS

Interested parties were invited to address the Commission on agenda and non-agenda items. There being no one wishing to address the Commission, Chair West closed the public comments portion of the meeting.

5) APPROVAL OF MINUTES from September 12, 2012

Motion: Commissioner Blank made a motion to approve the minutes of the Harbor Commission regular meeting of September 12, 2012, as submitted. Commissioner Girling seconded the motion, which carried with 4 ayes, 1 abstention (Rodheim) and 2 absent (McIntosh and Rhyne). Approved.

6) CURRENT BUSINESS

A. Stand Up Paddle Boarding in Newport Harbor

The Harbor Commission will discuss stand up paddle boarding in Newport Harbor and decide whether the issue should be added to the Commission's 2012-13 Objectives for further review and evaluation.

Recommendation:

1. Discuss the recent concerns over stand up paddle boarding in Newport Harbor, and
2. Consider adding stand up paddle boarding to the Harbor Commission's 2012-13 Objectives as a future item to evaluate.

Chair West read title to the aforementioned item and invited interested parties to address the Commission on this item.

Council Liaison Mayor Nancy Gardner reported receiving many emails regarding the matter and that most emails were in relation to people not paying attention rather than perceived problems with stand-up paddlers.

Chair West indicated that he too, received emails and stated the purpose for including the matter on the agenda was to air out the issue to obtain input from the Commission and to determine whether or not the matter warrants further consideration to assess possible safety concerns.

Commissioner Rodheim reported that he uses the Bay frequently and invited interested parties to join him at 7:15 a.m. Thursday, October 11, 2012 where Balboa Boat Rentals will be doing stand-up paddle boarding. He felt that the Commission should not take on the issue as it is currently not a problem. However, he agreed with the concept of boating safety and felt that increasing communication regarding safe paddle boarding or safe boating would be helpful. He noted that information is currently available.

Commissioner Blank referenced the City's Municipal Code Section 11.12.170 regarding crafts prohibited in the Harbor entrance. Among these are paddle boards, kayaks, life boats or similar types of crafts "for the transportation of persons in any portion of the main channel or entrance channel of the Harbor".

Discussion followed regarding Code violations observed. Commissioner Blank noted that he has witnessed violations but not to the level where there have been safety concerns.

Ensuing discussion pertained to people not being aware of that particular Code provision.

Mayor Gardner suggested that the Commission may want to address whether this is something that should be readdressed so that the City is not turning a blind eye to people who are breaking the law.

Commissioner Blank added that he has also witnessed enforcement on limited occasions noting that the Harbor Patrol has acted appropriately when there have been unsafe violations of the Code. He stated that he has also seen the Harbor Patrol not act when there have been violations of the Code that were not unsafe.

It was noted that the Harbor Patrol is aware of the Code and has enforced it judiciously.

Discussion followed regarding the issue not being a problem, the possibility of continued monitoring, the Code addressing manually-powered crafts, specifically and the possibility of asking Council whether it would like the Commission to review the Code and return with recommendations.

Mayor Gardner noted that Council has already asked the Commission to consider the matter and that the Commission is within its purview to make recommendations.

Chair West felt that an annual objective does not need to be formalized on the issue but asked Commission Blank if he would be willing to lead the effort in performing additional inquiries.

Commissioner Blank agreed and stated that publicity and awareness of the existing Code is warranted but that he would not advocate a revision to the Code.

Interested members of the public were invited to address the Commission on this item.

Dan Purcell felt that the matter will need to be addressed at some point because of increased paddle boarding, but that the Commission has many other issues to address. He suggested that the Commission sit on the matter for a while.

Len Bose addressed trends with Harbor use and felt that paddle boarders are important to the marine industry and may be future marine-industry clients.

Bill Whitford, Director of the Newport Aquatics Center, indicated that he was unsure as to whether there is a problem, but acknowledged that it takes only one event to make it a problem. He felt that this is a seasonal

problem and suggested taking a proactive approach and that the problems may be in relation to rental outfitters.

7) SUBCOMMITTEE REPORTS

Commissioner Girling presented a brief update on the Lower Castaways noting that he and Commissioners Avery and Rhyne met at the parcel with Harbor Resources Supervisor Shannon Levin and decided to reach out to respective Council Members to seek their thoughts and ideas and research history on the parcel. He reported that he and Ms. Levin will meet with a Community Development representative to obtain additional information and that he will meet with City Manager David Kiff for an information-gathering process. He hoped to present a report to the Harbor Commission within the next sixty-days and obtain additional information before reaching out to the community.

Commissioner Girling added that he met with a representative of the Coast Keepers who put together plans when the Irvine Company owned the parcel, and will make them available to him. These plans relate to a possible educational facility at the lower Castaways parcel.

Commissioner Blank presented a report on the placement and use of public piers and addressed objectives, approach taken by the subcommittee and steps taken so far. He addressed challenges, good utilization of existing piers and opportunities as well as conclusions and next steps.

Brief discussion followed regarding public piers on Balboa Island and Little Balboa Island.

Commissioner Girling reported that the lower Castaways parcel was granted to the City by the Irvine Company and that the subcommittee has reviewed the grant deed carefully. He noted that there is one prohibited use, which is to develop a commercial marina on the property. He reported that a subsidiary of the Irvine Company (California Recreation) has use of the parcel but the City has the ability to give them notice to vacate the premises.

Interested parties were invited to address the Commission on this item.

Dan Purcell inquired regarding the bridge over Coast Highway and felt that the matter should be considered in the future.

There being no others wishing to address the Commission, Chair West closed public comments for this item.

Discussion followed regarding the issue of Harbor lines developing the bridge area and that a meeting has been set to determine next steps.

8) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES

Mayor Gardner reported that one of the concerns of the Commission is one of relevance. She added that a recent Council meeting, Council appointed a subcommittee to consider committees and commissions and to clarify the role and clearly bifurcate the duties of the Harbor Commission and the Coastal Bay Water Quality Committee since there are some overlaps. She reported that the role of the Harbor Commission would be to advise the City Council on the implementation of the Tidelands Infrastructure Capital Plan as well as in matters pertaining to the use of water vessels within the Harbor, Harbor permits, advising the Planning Commission and Council on land-use and property development applications, make recommendations for regulations and programs and service the appellate body. The matter will be before Council at an upcoming meeting and Mayor Gardner asked Members to send any comments to her and she will forward them to the subcommittee.

Discussion followed regarding the possibility of addressing Council at its study session of November 13, 2012 to review the objectives developed by the Harbor Commission and verify if they are within the scope of Council's desire.

Ensuing discussion followed regarding the work of subcommittees ultimately leading to a set of recommendations to present to Council.

9) HARBOR RESOURCES UPDATE

Harbor Resources Manager Chris Miller provided an update on the Harbor dredging project addressing recent activities including dredging on the backside of Linda Isle. Mr. Miller addressed the number of cubic yards dredged and going into the Port of Long Beach and thanked the Port for their help and cooperation with this project. He suggested issuing a proclamation to them when the project is complete. He noted that dredging will continue on the rest of the channel. He addressed active dredge areas including the Newport Harbor Yacht Club and relocation of their moorings and stated that priority will be given to placing moorings back in place. In addition, he addressed areas to be dredged within the next few weeks.

Discussion followed regarding dredging near Bay Island and the possibility of dredging deeper near the Nautical Museum in order to accommodate tall ships. Mr. Miller reported that is not possible but indicated that he has been in communication with ExplorOcean to determine what they would like to do in that area. They will likely have that determination within the next two years.

Ensuing discussion pertained to the timeline for completion of the dredging project, the dredging schedule during the Christmas Boat Parade and installation of buoys for use as staging areas during dredging.

Regarding Linda Isle dredging, Mayor Gardner reported that they have a new board and will be putting together a new proposal for the City.

Members of the Commission commended staff and all involved in the dredging project.

Brief discussion followed regarding buoys marking underwater cables.

Mr. Miller addressed new pump-outs, an upcoming meeting of the Coastal Commission where the Corp permit matter will be addressed. He reported that the Corp (RGP) permit is expected in mid-November and stated that he would like input from the Commission on the matter. He addressed the complicated permitting process.

Discussion followed regarding providing an aggressive public outreach regarding availability of the permit, eelgrass issues, dredging in conjunction with residential docks, increasing public communication, the resident application process (404 permit), benefits to businesses, estimated cost of an eelgrass survey, current Harbor dredgers, commercial parcels included in the permit and number of cubic yards allowed to be dredged per year.

Mr. Miller added that the October meeting of the Tidelands Management Committee has been cancelled.

Mr. Miller presented a brief update on rates at the Balboa Marina. He noted that come March 1, 2013, they will be at 100% of market rates of the average of seven marinas within the prescribed basket of marinas. In addition he noted that the vacancy rate is around 15%.

Interested parties were invited to address the Commission on this item. There was no response and Chair West closed public comments for this item.

10) PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR HARBOR RESOURCES UPDATE

None

11) COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)

Discussion followed regarding keeping the RGP 54 matter on the agenda for continued status updates as well as addressing the Cheyenne issue at the Harbor Commission meeting in December or January.

12) DATE AND TIME FOR NEXT MEETING:

Wednesday, November 14, 2012 at 6:00 p.m.

13) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:39 p.m.



CITY OF

NEWPORT BEACH

Harbor Commission Staff Report

Agenda Item No. 1
November 14, 2012

TO: HARBOR COMMISSION

FROM: Public Works Department
Chris Miller, Harbor Resources Manager
949-644-3043, cmiller@newportbeachca.gov

TITLE: Stand Up Paddle Boarding in Newport Harbor

ABSTRACT:

Commissioner Blank will report on his research on stand up paddle boarding in Newport Harbor.

RECOMMENDATION:

1. Receive and file.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

On September 11, 2012, the City Council observed that stand up paddle boarding has become quite popular in Newport Harbor, with many experienced and non-experienced paddlers using the main and side channels of the bay on a daily basis. There was a concern for safety as the stand up paddle boarders navigate alongside the many other user groups in the harbor.

On September 25, staff asked the Council for direction on whether staff and the Harbor Commission should evaluate the issue further. Council decided to leave it up to the Harbor Commission's discretion as to pursue the issue, or not.

At the October 10, 2012 Harbor Commission meeting, Commissioner Blank gave a brief report on stand up paddle boarding, and agreed to return to the November meeting with more information.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

Submitted by:



Chris Miller



== CITY OF ==

NEWPORT BEACH

Harbor Commission Staff Report

Agenda Item No. 2
November 14, 2012

TO: HARBOR COMMISSION

FROM: Public Works Department
Chris Miller, Harbor Resources Manager
949-644-3043, cmiller@newportbeachca.gov

TITLE: Review of the City's Regional General Permit (RGP-54)

ABSTRACT:

The City's Regional General Permit program will be discussed along with some proposed options for the next permit in 2014. Staff is requesting guidance from the Harbor Commission on how best to proceed by the January 2013 meeting.

RECOMMENDATION:

1. The Harbor Commission will consider forming a subcommittee to examine various options for the next RGP-54 permit, and will return to the Commission in January 2013 with a recommended approach.

FUNDING REQUIREMENTS:

There is no fiscal impact related to exploring different alternatives to the RGP-54 program. However, once a specific path is chosen, funds will be expended depending on the direction the Commission advises.

DISCUSSION:

For well over 25 years, the City's residents have relied on the RGP-54 permit as a mechanism to dredge under their residential and commercial piers. This permit has gone through different iterations over the years, but generally it has been valid for a period of five years, and has been limited to dredging down to -7' MLLW (+ 1' overdredge). In addition, the sediment around the entire perimeter of the harbor is required to be tested at a cost of over \$300,000 – a process that can easily take over a year to complete.

Lately, the residents have decreased their usage of the permit and their need for dredging, largely due to the present state of the economy (dredging can be expensive), and the regulatory restrictions on eelgrass (dredging cannot occur within 15' of any eelgrass). As a result, demand has decreased to just a few people over the past 3-4 years.

Given the City's expense of securing the permit, and the complications involved in the application review process with the regulatory agencies, staff is considering other alternatives / approaches to the RGP-54. Is there a better way to manage this type of a permit while still assisting the residents at an acceptable level? Does the current permit still work for Newport Harbor?

These are important questions that must be asked and resolved very soon. The current RGP-54 permit expired in November 2011, and staff has been working to renew this permit for the past two years. (It is expected to be renewed this month, then be valid until Spring 2014.) With the length of time involved in the testing / permit process, it is imperative that we investigate alternatives sooner than later.

The City retained Anchor QEA to examine different alternatives for the RGP-54 permit, and their suggested ideas are attached. The Harbor Commission is requested to form a subcommittee to review the RGP-54 permit along with the alternative approaches from Anchor QEA, and to return to the Commission in January with a recommended path forward.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

Submitted by:



Chris Miller

MEMORANDUM

| | | | |
|--------------|---|--------------|------------------|
| To: | Chris Miller, City of Newport Beach | Date: | October 18, 2012 |
| From: | Jack Malone and Adam Gale, Anchor QEA, L.P. | | |
| Cc: | Steve Cappellino and Joshua Burnam, MPH, D.Env., Anchor QEA, L.P. | | |
| Re: | Comparison of Feasible Options for RGP Implementation | | |

Since the mid-1970s the City of Newport Beach (City) has offered an economical and streamlined program for individual property owners to maintain safe and effective navigational depths adjacent to their docks through Regional General Permit (RGP) 54 with the U.S. Army Corps of Engineers. The City maintains RGP 54 and is responsible for renewing it every 5 years; however, specific limitations of RGP 54 prevent a large portion of Newport Bay property owners from using the program. In addition, costs for the City to maintain RGP 54 have increased over the years as regulatory requirements have become more stringent (primarily sediment testing requirements).

This memorandum describes the existing RGP 54 currently being renewed and identifies two other options for restructuring RGP 54, which could offer a more flexible and/or cost effective approach to the City. It is crucial to consider potential options for the next version of RGP 54 now in order to update sediment characterization for the existing permit. If the City decides to maintain the existing RGP 54, then a Tier 3 evaluation for the bay must be completed. A Tier 3 evaluation would assess the impact of any contaminants in the proposed dredged material on appropriate sensitive organisms to determine if there is potential for the material to have an unacceptable impact. The Tier 3 evaluation methods are bioassays and bioaccumulation tests. If the City decides on Option 1 or 2 described below, then the existing RGP 54 (including the Tier 3 evaluation) would be abandoned and the City would apply for a new RGP, which would take approximately 1 year for review and approval by the regulatory agencies. At that point, a new 5-year permit would be approved. A decision should be made in the near term to prevent a gap in RGP 54 coverage.

While the existing RGP 54 is used by residents and other entities, a number of factors limited its use. These factors include the individual project volume and depth restrictions being

insufficient for many needs, the prohibition on dredging in the vicinity of eelgrass, and the lack of provisions authorizing limited structural improvements. As a result, fewer applicants used the existing RGP 54 over time.

The following sections summarize the current RGP 54 structure along with two options for a revised structure that may prove more beneficial to the City and its residents. A table comparing all three options is provided as Attachment A.

RGP 54 OPTIONS

Maintain Existing RGP 54

Under the existing RGP 54, individual property owners can undertake small dredging projects to maintain a depth of -7 feet mean lower low water (MLLW) plus 1 foot of allowable over-depth to berth vessels at existing piers, docks, and bulkhead structures. Based on projects conducted in 2004 through 2010, the average project volume was 335 cubic yards (cy) per site, with annual totals ranging from 990 to 10,903 cy. RGP 54 is renewed every 5 years and most recently expired in November 2011. The regulatory agencies are currently reviewing applications to reauthorize RGP 54, and issuance of their approvals is anticipated in late November 2012. The City has sought approval from the regulatory agencies to use federal channel data from sampling conducted in spring 2009, where appropriate, to characterize areas of Newport Bay that would be valid through March 2014. Following the Lower Newport Bay federal dredging project (currently underway), the City would conduct a full Tier 3 evaluation of all RGP 54 areas, with data remaining valid for 5 years following the time of sampling. The City presented a proposed Sampling and Analysis Plan (SAP) to the Dredged Material Management Team (DMMT) in February 2011, and the DMMT approved a revised SAP in April 2011. The City proposed that the reauthorization of RGP 54 be effective for a term of 5 years, with the understanding that the approved 2011 SAP be implemented and the results approved by the DMMT before dredging activities proposed as part of this permit application can proceed beyond March 2014.

The RGP 54 currently being renewed includes:

- Dredging operations authorized are limited to areas of Upper and Lower Newport Bay where sediment characterization data have been reviewed and approved by the DMMT.
- Minor dock improvement work is not allowed.
- Dredging operations are limited to -7 feet MLLW plus 1 foot of allowable over-depth between the pierhead and bulkhead lines.
- All dredging and disposal operations require sediment grain size analysis to qualify for beach and ocean disposal. Sediment suitable for beach disposal can be disposed of close to the authorized dredge site. Sediment unsuitable for beach disposal will be disposed at a U.S. Environmental Protection Agency (USEPA)-approved ocean disposal site (e.g., LA-3).
- Dredging quantities are limited to 1,000 cy per project with an annual cumulative dredge volume of 20,000 cy.
- RGP 54 does not apply where eelgrass is found within 15 feet or less (in any direction) from the proposed dredge or dredge material disposal footprints.
- Every 5 years, the City retains responsibility for completing a bay-wide sediment characterization effort. (Given the substantial volume of historical sediment testing data amassed by the City, the DMMT may be amenable to a reduced testing effort on future SAPs. This approach is consistent with how ongoing maintenance characterization is conducted at some ports.)The City submits files to the regulatory agencies monthly and waits for a response from the agencies on every project. The agency response time varies from 30 days to several months.

Potential costs associated with maintaining RGP 54 in its currently proposed form include:

- A periodic bay-wide Tier 3 evaluation of all RGP 54 areas every 5 years. The DMMT may allow a Tier 1 analysis in place of the Tier 3 evaluation at a rough estimated cost of \$350,000-\$400,000.
 - RGP 54 would need to be renewed in fall 2017, requiring submittal of requests to the agencies.
 - Administrative costs – To be determined.
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Option 1: City Sediment Characterization

The City would allow the current version of RGP 54 to lapse and submit permit applications to the regulatory agencies for a new RGP that would include rolling, focused sediment characterization efforts that would divide the bay into units based on historical data to guide sediment testing. This approach would reduce the intensity and area of the previous sediment characterization and, therefore, decrease sampling costs over the life of the RGP. In addition, several of the factors limiting use of the existing RGP 54 would be resolved through proposed modification of the terms of the RGP. Key revisions include eliminating the individual project dredging volume limit, increasing the allowable dredging depth, and removing the prohibition on dredging near eelgrass.

Specifics proposed under this option include:

- Dredging operations would be limited to areas of Upper and Lower Newport Bay where sediment characterization data have been reviewed and approved by the DMMT.
 - Dredging operations limited to -9 feet MLLW plus 1 foot of allowable over-depth between the pierhead and bulkhead lines. (The regulatory agencies will need to confirm the RGP is for maintenance and historical depths in the bay will need to be verified; however, increasing the depth limitation will broaden the appeal of the RGP. This item may be negotiable with the agencies, because the dredging deeper may mean fewer separate individual permits they are likely to receive.)
 - All dredging and disposal operations require sediment grain size analysis to qualify for beach and ocean disposal. Sediment suitable for beach disposal can be disposed of close to the authorized dredge site. Sediment unsuitable for beach disposal would be disposed at an approved ocean disposal site (e.g., LA-3).
 - No individual project dredging quantity limits with an annual cumulative dredge volume of increased 150,000 cy.
 - Impacts to eelgrass would be allowed and addressed through the City's bay-wide eelgrass management program.
 - The City retains responsibility for completing rolling physical and chemical testing for biological constituents of historical concern. Application review and approval would be processed under a tiered approach in which authority is delegated to the
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City. The City would approve small projects without agency review, allow a 30-day review by regulatory agencies for medium projects, await approval from agencies for large projects.

- In-kind repair and replacement of docks, bulkheads, and piles would be allowed and tracked through the development of a bay-wide program similar to the eelgrass management program.

Potential costs associated with this option include:

- Rolling focused characterization surveys at a rough estimated cost of \$50,000-\$100,000
- Permitting costs –\$60,000-\$80,000
- Administrative Costs – To be determined

Option 2: User Sediment Characterization

The City would allow the current RGP 54 to lapse and submit permit applications to the regulatory agencies for a new RGP that would be structured such that individual property owners would be responsible for their own sediment characterization. This approach has proven successful in other municipalities, including the City of Long Beach. Key differences between this approach and the current RGP 54 include eliminating the individual project dredging volume limit, increasing the allowable dredging depth, and removing the prohibition on dredging near eelgrass. The critical difference between this approach and Option 1 is that under this approach the City would no longer be responsible for conducting bay-wide sediment characterization efforts.

Specifics proposed under this option include:

- Dredging operations would be limited to areas of Upper and Lower Newport Bay where sediment characterization data have been reviewed and approved by the DMMT.
 - Dredging operations limited to -9 feet MLLW plus 1 of allowable over-depth between the pierhead and bulkhead lines. (The regulatory agencies will need to confirm the RGP is for maintenance and historical depths in the bay will need to be verified; however, increasing the depth limitation will broaden the appeal of the RGP. This
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item may be negotiable with the agencies, because the dredging deeper may mean fewer separate individual permits they are likely to receive.)

- All dredging and disposal operations require sediment grain size analysis to qualify for beach and ocean disposal. Sediment suitable for beach disposal can be disposed of close to the authorized dredge site. Sediment unsuitable for beach disposal would be disposed at an approved ocean disposal site (e.g., LA-3).
- Impacts to eelgrass would be allowed and addressed through City's bay-wide eelgrass management program.
- Individual property owner will be responsibility for sediment testing. The City would develop a SAP for review and approval by the DMMT, which individual applicants could then follow. The SAP would take into account historical data from different parts of the bay. Individual property owners would be required to submit the results of their Sampling and Analysis Report (SAR) to the DMMT for review and approval.
- Annual cumulative dredge volume would be increased to 150,000 cy.
- Application review and approval would be processed under a tiered approach in which authority is delegated to the City. The City would approve small projects without agency review, allow a 30-day review by regulatory agencies for medium projects, and await approval from agencies for large projects.
- In-kind repair and replacement of docks, bulkheads, and piles would be allowed and tracked through the development of a bay-wide program similar to the eelgrass management program.

Potential costs associated with this option include:

- City permitting costs, including Draft Master SAP – \$80,000 to \$100,000
- Individual property owner sediment testing – approximately \$50,000 to \$60,000
- Administrative costs

OTHER OPTIONS CONSIDERED BUT DISMISSED

Two other approaches in which the City would abandon the RGP altogether were considered and dismissed. In the most extreme version of this option, the City would no longer provide any mechanism to assist property owners in conducting maintenance

dredging. This approach was dismissed as not meeting the City's goal. Another version of this option would be for the City to continue to conduct periodic bay-wide sediment characterization efforts to produce data that could be used by property owners as they pursue their own agency approvals. This approach was dismissed as being costly to the City while not being user-friendly to property owners.

Comparison of Feasible Options for RGP Implementation

| RGP 54 | Maintain Existing RGP 54 | Option 1 – City Sediment Characterization | Option 2 – User Sediment Characterization |
|---------------------------------|---|--|---|
| Annual Maximum Volume | 20,000 cy | 150,000 cy | 150,000 cy |
| Individual Project Volume Limit | 1,000 cy | None | Location specific – the harbor may be divided based on guidelines about areas and depths |
| Maximum Dredge Depth | Minimum of -9 feet MLLW plus 1 foot overdredge; deeper if can be supported by historical design depth | Minimum of -9 feet MLLW plus 1 foot overdredge; deeper if can be supported by historical design depth | Minimum of -9 feet MLLW plus 1 foot overdredge; deeper if can be supported by historical design depth |
| Sediment Testing | Periodic bay-wide characterization | Rolling, focused characterization in which the bay is divided into units. Historical data would be used to guide sediment testing. | Individual property owner responsibility to conduct sediment characterization. City develops template sediment SAP for review and approval by the DMMT, which applicants could then follow. The SAP would take into account historical data from different parts of the bay. Individual property owners would be required to submit the results of their sediment sampling to the DMMT for review and approval. |
| Eelgrass | No impacts allowed | Address impacts addressed through City's bay-wide eelgrass program | Address impacts addressed through City's bay-wide eelgrass program |
| Structures | No maintenance allowed | Potential for in-kind repair and replacement of docks, bulkheads, and piles | In-kind repair and replacement of docks, bulkheads, and piles. |
| | | Will be further evaluated on the need and reaction from the regulatory agencies to include this as part of a new RGP | |

Comparison of Feasible Options for RGP Implementation

| RGP 54 | Maintain Existing RGP 54 | Option 1 – City Sediment Characterization | Option 2 – User Sediment Characterization |
|--------------------------|--|---|--|
| Application Review | City submits files to agencies monthly and waits for agency verification (varies from 30 days to several months) | Tiered approach in which authority is delegated to the City to approve small projects without agency review; allows 30-day review by agencies for medium projects; awaits approval from agencies for large projects | Tiered approach in which authority is delegated to City to approve small projects without agency review; allows 30-day review by agencies for medium projects; awaits approval from agencies for large projects. This assumes that individual applicants would obtain DMMT approval for sediment disposal prior to submitting project information to the City. |
| Shading | Not applicable | Develop bay-wide program to track shading changes similar to eelgrass management program | Develop bay-wide program to track shading changes similar to eelgrass management program |
| Water Quality Monitoring | Basic monitoring required by Regional Water Quality Control Board | Tiered approach to monitoring in which monitoring is not required for small projects and basic frameworks are developed for medium and large projects | Tiered approach to monitoring in which monitoring is not required for small projects and basic frameworks are developed for medium and large projects |
| Applicable Users | Anyone within the permit area | Anyone within the permit area | Anyone within the permit area |
| Disposal | Beach nourishment, ocean disposal, upland disposal or confined disposal facility | Beach nourishment, ocean disposal, upland disposal | Beach nourishment, ocean disposal, upland disposal |
| SLC Dredging Lease | Valid through 2015 | A new lease will be required for work within submerged tidelands granted to the County of Orange | A new lease will be required for work within submerged tidelands granted to the County of Orange |



== CITY OF ==

NEWPORT BEACH

Harbor Commission Staff Report

Agenda Item No. 3
November 14, 2012

TO: HARBOR COMMISSION

FROM: Public Works Department
Chris Miller, Harbor Resources Manager
949-644-3043, cmiller@newportbeachca.gov

TITLE: Discussion of Proposed Approaches for Reorganizing the Harbor Commission

ABSTRACT:

The Harbor Commission will discuss the ideas for reorganizing the Commission as stated at the Council Study Session on November 13, 2012.

RECOMMENDATION:

1. Receive and file.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

In September 2012, the Council formed a Task Force to look at the various committees and commissions within the City system, and to determine: (1) if there was any overlap within the functions, and (2) what "housekeeping" needed to be done to ensure consistency within the City (i.e. committee terms, committee member terms, chairmanship appointments, regularity of meeting schedules, meeting locations, public input processes, and more.)

At the November 13, 2012 Study Session, the Council specifically spoke about the Harbor Commission's role in the community, and discussed a proposal for the future Commission which is summarized below.

1. Change the Harbor Commission to "Harbor Tidelands Management Committee"
2. Mission: To advise the Council on matters affecting the tidelands of Newport Harbor.
3. Membership: Seven members appointed by the Council, along with two Council Members, one of whom would be the Chair.
4. Term: 4 years, 2 consecutive terms maximum.

5. Subject to the Brown Act.

6. Purpose and Responsibility

- a. Advise Council on the Tidelands Capital Plan.
- b. Advise Council on all matters pertaining to use, control, operation etc...of vessels and watercraft on the harbor.
- c. Approve, conditionally approve or disapprove harbor application permits.
- d. Advise the Planning Commission and Council on land use development applications that pertain to the harbor.
- e. Recommend adoption of regulations and programs.
- f. Serve as an appellate and reviewing body.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

Submitted by:



Chris Miller